

EXHIBIT 2

THE LUMMI RESERVATION: PRIMARY PURPOSE AND TEMPORARY CHARACTER

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CONCLUSIONS

1. Jeffersonian agrarianism formed the basis of United States Indian policy in the nineteenth century. This policy expected tribal members to acquire the skills for agriculture and related mechanical arts, to attend schools and churches, and in all ways prepare to become American citizens. Government officials strongly supported these tenets until well into the twentieth century.

2. Under the government's reservation policy, beginning in the 1850s, Indian groups were settled on lands in or near their traditional territories. There, for a limited time, they received education, training, and subsidies for agricultural equipment and the other necessities of a modern society. A key feature of this policy was allotment of agricultural land in severalty to tribal members. At the end of their tuition tribal members would become citizens of the United States.

3. The Treaty of Point Elliott (1855) reflected United States policy as described above in all respects. Following the policies and instructions of the federal government, treaty negotiator Isaac Stevens established a reservation for the Lummi and other tribes for their "present use and occupation." The treaty provided for relocation to a general reservation for western Washington tribes and for allotments of land in severalty to tribal members.

4. The intent of the government in the 1855 Point Elliott Treaty was to create the Lummi Reservation as a temporary location for the Lummi and members of other bands and tribes.

5. The primary purpose of the Lummi Reservation was to create an agricultural community for individuals and families.

6. The 1873 Executive Order adopted the lines of a government survey of the same year. This order allowed withdrawal of lands from the public domain in the general area of the temporary Lummi Reservation for the purpose of allotment to individual Indians for agricultural purposes.

7. In 1883-1884, most of the lands within the 1873 survey were allotted to individuals who over the next few years received patents to their lands. The purpose of allotment in severalty was to end communal ownership of land and tribal allegiance. Conversely, property ownership constituted a key step toward citizenship.

I. UNITED STATES INDIAN POLICY TO 1853

United States policy toward the nation's native population from the beginning of the nineteenth century until 1934 concentrated on bringing tribal members into the mainstream of American life with all the rights, privileges, and responsibilities of citizens. Concomitant with this aim was eradication (after a necessary transition period) of Indian religious, political, and economic practices.

The Point Elliott Treaty of 1855 (ratified in 1859) represented one small, but integral part of the nation's Indian policy. It provided a temporary reservation for the Lummi people as a safe haven where adults could learn farming, mechanical and household arts and the children attend school.

Americans living in later centuries might find pre-1934 Indian policy paternalistic, but to Thomas Jefferson, and virtually every other nineteenth century policy maker, it seemed an enlightened alternative to the common process of extinction as one group supplanted another throughout the history of organized human societies in all parts of the world.

For Jefferson and most other Americans in the nineteenth century, agrarianism provided a livelihood, but to them it was much more than that; it encapsuled a way of life that strengthened character

and induced high moral values. In Jeffersonian thought the yeoman farmer embodied the character of the new nation: self-reliance, industry, strong moral fiber, and democratic principles. The process contemplated under the treaties assumedly would allow the Indians to evolve quickly to a plane of civilization that had taken European/Americans several hundred years to achieve. As President, Jefferson set the tone for the policy of the next 100 plus years.

Historian Francis Paul Prucha has noted that Jefferson had a single formula for all tribes: "[t]he hunter state must be exchanged for an agricultural state; the haphazard life dependent upon the chase must give way to a secure and comfortable existence marked by industry and thrift; private property must replace communal ownership."¹

In his first annual message in 1801, Jefferson happily informed Congress that the Indians relied ever more on husbandry, and "they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence over the precarious resources of hunting and fishing...." In a message two years later to the Senate and House, Jefferson noted the nation's need for Indian lands necessitated by the rapid increase in population. Thus, proper Indian policy should, "encourage them to abandon hunting, to apply to the raising [of] stock, to agriculture, and

¹ Francis Paul Prucha, *THE GREAT FATHER* (Lincoln: University of Nebraska Press, 1984), 139.

domestic manufacture, and thereby prove to themselves that less land and labor will maintain them in this better than in their former mode of living."²

Jefferson's successors without exception continued these policies. President James Monroe informed Congress:

To civilize them, and even to prevent their extinction, it seems to be indispensable that their independence as communities should cease, and that the control of the United States over them should be complete and undisputed. The hunter state will then be more easily abandoned, and recourse will be had to the acquisition and culture of land and to other pursuits tending to dissolve the ties which connect them together as a savage community and to give a new character to every individual.³

President John Quincy Adams declared that "[t]he ultimate design was to incorporate in our own institutions that portion of them

² James D. Richardson, comp., A COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS (Prepared Under the Direction of the Joint Committee on Printing, of the House and Senate, Pursuant to an Act of the Fifty-Second Congress of the United States, 20 vols., N.Y.: Bureau of National Literature, 1897-1920), Thomas Jefferson, First Annual Message, December 8, 1801, p. 314; Jefferson [To] Gentlemen of the Senate and of the House of Representatives, January 18, 1803, p. 340.

³ Ibid, James Monroe, Second Annual Message, November 16, 1818, 615.

which could be converted to the state of civilization."⁴

President Andrew Jackson introduced the concept of removing Eastern tribes to the West. However, the overriding policy remained unchanged. Removed from the pressures of an advancing population, Jackson predicted, tribes and their teachers, both religious and secular, "may proceed unmolested in the interesting experiment of gradually advancing a community of American Indians from barbarism to the habits and enjoyments of civilized life."⁵

President Jackson's Commissioner of Indian Affairs for more than half of his two terms, Elbert Herring (1831-1836), argued that removal allowed Indians the opportunity to acquire the essentials of civilization--Christianity, agriculture, and private property. As Herring's biographer has noted, he warned that Indians "were a doomed race unless they altered their life-styles and accepted white patterns of living."⁶

Herring's successors likewise echoed the Jeffersonian view of proper policy toward the continent's native populations. T. Hartley Crawford (1838-1845) asserted that "common property and

⁴ Ibid, John Quincy Adams, Fourth Annual Message, December 2, 1828, 981-982.

⁵ Ibid, Andrew Jackson, Third Annual Message, December 6, 1831, 1118.

⁶ Ronald N. Satz, "Elbert Herring," in Robert M. Kvasnicka & Herman J. Viola, eds., THE COMMISSIONERS OF INDIAN AFFAIRS, 1824-1977 (Lincoln: University of Nebraska Press, 1979) 13-14.

civilization cannot co-exist." He warned, "[i]f...the large tracts of land set apart for them shall continue to be joint property, the ordinary motive to industry (and the most powerful one) will be wanting. A bare subsistence is as much as they can promise themselves."⁷

Rapid settlement of the West in the 1840s prompted a shift in one aspect of the United States government's Indian policy. The major purposes continued to be peaceful settlement of the continent and incorporation of the native population into the mainstream of American life accomplished through agrarianism, education, and Christianity. However, it became unfeasible to relocate tribes from one section of the country to another. Beginning in the early 1850s, the Indian Office crafted a policy that created reservations within or near the traditional homelands of tribes where they could be temporarily separated from the white community while they learned to farm, acquired skills in the mechanical arts, and sent their children to schools.

Under this so-called "reservation policy" some treaties provided for temporary reservations where traditional subsistence practices could continue during a transition period. After further investigation of suitable locations containing sufficient farm land, the Indians would relocate with the understanding (as

⁷ Commissioner of Indian Affairs [CIA], Annual Report, 1838, 425.

provided by treaty) that the land eventually would be allotted to tribal members with excess lands sold to non-Indians settlers.

At the start of the Franklin Pierce administration in March 1853, George W. Manypenny became commissioner of Indian affairs, and (with his second-in-command Charles Mix) became the chief architect of the treaties implementing the reservation policy. In the same month Washington Territory came into existence with Isaac I. Stevens receiving appointment as governor and superintendent of Indian affairs for the new political entity.

Commissioner of Indian Affairs Manypenny in 1854 negotiated nine treaties with tribes in the area immediately west of the Missouri / River. Central to all the treaties was a provision allowing allotment of lands to families and individuals in farm-sized plots. Any lands left over could be sold to citizens with the proceeds going to the Indians. This comprised Article 6 of the Omaha Treaty, a document sent by Manypenny to Stevens for his guidance in formulating the Washington treaties. Subsequently Article 6 was incorporated into the Point Elliott Treaty.

The 1854 Omaha Treaty included acknowledgement by the tribe of its dependence upon the government of United States, agreement to exclude ardent spirits, and the right of citizens to run roads and railways through the reservation. The government agreed to provide payments for a fixed period of time for buildings, farms, fences,

stock, seeds, implements, and other purposes designed "to advance them in civilization." Further, the government committed to build and staff mills and blacksmith shops and to hire a farmer to give assistance and instruction. Again, this all became part of the Point Elliott Treaty.⁸

A second set of treaties also directly influenced those concluded by Isaac Stevens. In September 1853, Oregon Superintendent of Indian Affairs Joel Palmer incorporated the federal government's new Indian policies in treaties negotiated with the Rogue and Cow Creek bands. The Table Rock Treaty with the Rogue created a temporary reserve of about 100 square miles which contained good agricultural land and a variety of roots, game, and fish. Article 2 of this treaty stated:

It being understood that this described tract of land shall be deemed and considered an Indian reserve, until a suitable selection shall be made by the direction of the President of the United States for their permanent residence and buildings erected thereon, and provisions made for their removal.⁹

The Cow Creek Treaty contained the same language regarding a

⁸ Treaty with the Omaha, March 16, 1854, 10 Stats., 1043.

⁹ Treaty with the Rogue River, 1853, 10 Stats., 1018.

✓ temporary location.¹⁰ Within a few years all western Oregon tribes were consolidated on two reservations. This provision for temporary reservations with eventual consolidation was also incorporated in the Point Elliott Treaty.

¹⁰ Treaty with the Umpqua-Cow Creek Band, 1853, 10 Stats., 1027.

II. THE POINT ELLIOTT TREATY

Governor Stevens met with tribes on his way west in 1853, assessed the Indian situation in Washington Territory, and informed Commissioner of Indian Affairs Manypenny, "the great end to be looked to is the gradual civilization of the Indians, and their ultimate incorporation with the people of the Territory."¹¹

Stevens returned to the nation's capital in 1854 where he conferred a number of times with Manypenny and his top assistant (and later commissioner) Charles Mix. At that time leaders of the Kansas/Nebraska tribes were in the capital negotiating their treaties (discussed above).

Charles Mix, acting for Manypenny, issued the commissioner's instructions to Governor Stevens to conclude "Articles of Agreement & Convention with the Indian Tribes in Washington Territory" (a region stretching from the divide of the Rocky Mountains to the Pacific Ocean). Stevens received copies of Palmer's Oregon treaties which had established temporary reservations with the injunction that the Indian Office regarded these treaties "as exhibiting provisions proper on the part of the Government and advantageous to the Indians & will afford you valuable

¹¹ Isaac I. Stevens to George Manypenny, September 16, 1854, CIA, Annual Report, 1854, 455.

suggestions."¹²

Mix also provided Stevens with copies of Manypenny's treaty with the Omaha and that with the Ottoes & Missourias which he said would indicate the policy of the Government in regard,

to the ultimate civilization of the Indian Tribes, the graduation of the annuity payments secured to them, the encouragement of Schools and Missions among them,...and the authority proper to reserve to the President of determining the manner in which annuities of Indians shall be applied for their benefit.

In regard to the last point, Mix noted that policy called for payment of annuities in agricultural implements, stock, and goods necessary to the "comfort & civilization of the tribes."¹³

Finally, Mix admonished Stevens to operate within the general views of the government, and "you will take care in all treaties made to leave no question open out of which difficulties may hereafter arise, or by means of which the Treasury of the United States may be approached."¹⁴

Back in Olympia, Stevens appointed several men well acquainted with

¹² Charles Mix to Stevens, August 30, 1854, National Archives, M21, Letters Sent by the Office of Indian Affairs, R.50.

¹³ Ibid.

¹⁴ Ibid.

the Territory's tribes to serve as a commission to draft a general outline for all the forthcoming treaty negotiations. Stevens and his advisors read and "fully discussed" the copies of Manypenny's treaties before drafting a plan which would initially locate as many as ten reservations in western Washington, but "generally to admit as few Reservations as possible, with the view of finally concentrating them in one."¹⁵

After meeting with the bands near Olympia at the end of December 1854 and concluding the Treaty of Medicine Creek, Stevens traveled north to the Snohomish River to treat with the tribes and bands in the area between present Everett and British Columbia. Stevens had met with those living in the Bellingham Bay area early in 1854 to inform them of a treaty council to be conducted at some point in the future. In early January 1855 one of the treaty commissioners, traveled to Bellingham Bay to bring the various tribes to Point Elliott. (He failed to reach the Nooksacks because of ice in the river). The Lummi arrived on January 17.¹⁶

Before the Point Elliott council began, surveyor George Gibbs (another member of the treaty commission) reconnoitered the region around the Snohomish River to test Governor Stevens' preliminary

¹⁵ Records of the Proceedings of the Commission to Hold Treaties with the Indian Tribes in Washington Territory and the Blackfoot Country [Records of Proceedings], December 7, 1854, National Archives, M5, Records of the Washington Superintendency of Indian Affairs [WSIA], R.26.

¹⁶ Records of Proceedings, January 9, 17, 1855.

conclusion that this might be the best location for the general reservation contemplated for all Puget Sound tribes. Gibbs and Puget Sound Indian Agent Michael Simmons recommended Tulalip Bay where a township could be set aside, "fitted in all respects for an agency, having a harbor to which a vessel of ordinary size could have access, perfectly safe & with abundant good land for farms."¹⁷

The council convened on January 22. Stevens told the head men that he had consulted with the Great Father (using the common parlance of the day to mean the President and federal government). The governor realized that he must speak in general terms to better convey the basic points in the treaty's articles. The "Great Father," Stevens said, would care for his "children" in the present life and prepare them for the life to come--"a home for the next world." He made it clear that the government planned "to place you in homes where you can cultivate the soil." The Lummi leader Chowitshoot responded that he raised potatoes and had built a house, but would move to the agreed location and "do as you say hereafter."¹⁸

Discussion at the council on January 22 was limited because, as Stevens remarked during the proceedings, all the details "had been fully explained by Col. Simmons, & Mr. Shaw, the Interpreter, in previous conversations with the Chiefs and head men, and as is

¹⁷ Records of Proceedings, January 12, 13, 16, 1855.

¹⁸ Records of Proceedings, January 22, 1855.

believed were fully understood." At the council the treaty was read and explained "paragraph by paragraph," and then agreed to and signed by all parties.¹⁹

The Treaty of Point Elliott (or Treaty with the Dwamish, Suquamish, etc.) lists twenty-two separate groups, but not the Lummi who are subsumed under "other allied and subordinate tribes and bands." In Article 1, the native people "hereby relinquish and convey to the United States all their right, title, and interest in and to the lands and country occupied by them." Article 2 "reserved for the present use and occupation of the said tribes and bands the following tracts of land...." Four areas were set aside including "the island called Chah-choo-sen, situated in the Lummi River at the point of separation of the mouths emptying respectively into Bellingham Bay and the Gulf of Georgia."²⁰

No reference to acreage or a legal description of boundaries is contained in the treaty. There was no need for precision because the reserves were temporary. Article 3 reserved thirty-six sections at Tulalip Bay "for the purpose of establishing thereon an agricultural and industrial school...and with a view of ultimately drawing thereto and settling thereon all the Indians living west of

¹⁹ Records of Proceedings, January 22, 1855.

²⁰ Treaty with the Dwamish, Suquamish, etc., January 22, 1855, 12 Stat., 927.

the Cascade Mountains in said Territory."²¹

Upon conclusion of the first treaty council at Medicine Creek, Stevens had written to Commissioner of Indian Affairs Manypenny informing him regarding Indian reserves that, "it was proposed to admit as few reservations as possible with the view of finally concentrating them in one." Further, the governor pointed out,

article 6th gives authority to the President to remove these Indians to other reserves or to consolidate them with friendly tribes in a single reserve, as also to give within the limits of the reserves homesteads on the principle of the Omaha Treaty.²²

Thus, not only were all the reserves (except the central one) temporary, the President had the right to combine tribes and move tribes at will.

Several weeks later Stevens reiterated the point, telling Manypenny, "it is believed that as soon as the central agency shall be underweigh [sic], all the special reservations can be dispensed with and the Indians consolidated on the general reservation."²³

At a later date, the Lummi Tribe endorsed Stevens' representations

²¹ Ibid. The government retained the right to change the general reserve to another location if it wished.

²² Stevens to Manypenny, December 30, 1854, WSIA, R.1.

²³ Stevens to Manypenny, May 11, 1855, WSIA, R.1.

regarding temporary reservations. In 1925 the Lummi stipulated in their Sixth Cause of Action to the U.S. Court of Claims that the Tribe understood at the time it signed the Point Elliott Treaty:

that the reservations reserved in said treaty and designated therein were but temporary resting places for their then present use; that a general reservation was provided for therein to be thereafter selected in Western Washington by the President, upon and to which all the tribes then signing said treaty, and others, would be moved....²⁴

At the Point Elliott council Stevens also told the chiefs that the Indians could continue to hunt, fish, and take roots and berries. Article 5 allowed the taking of fish at usual and accustomed places in common with citizens and the privilege of hunting and gathering on open and unclaimed lands.²⁵

The fishing, hunting, and gathering article must be placed in the context of United States policy. Many treaties concluded before 1855 allowed temporary hunting, fishing, or gathering privileges.²⁶

²⁴ The Duwamish, Lummi [et.al] v. United States, United States Court of Claims, No. F-275, Claim of the Lummi Tribe of Indians, pp. 17-18.

²⁵ Ibid.

²⁶ Typical versions of these provisions appear in the following Cherokee and Menominee treaties. The 1798 treaty with the Cherokee (7 Stat., 62) provided, "that until settlement shall make it improper, the Cherokee hunters shall be at liberty to hunt and take game upon the lands relinquished and ceded by this treaty." The 1831 Treaty with the Menominee (7 Stat., 342) stated that the tribe, "shall be at liberty to hunt and fish on the lands they have

The governor's son Hazard Stevens, who was privy to his father's private discussions with both whites and Indians, detailed the government's intentions:

At the first the reservations were to be used in common, but provision was made for the survey and subdivision of the land, and its allotment to the Indians in severalty as soon as they should be prepared to receive and utilize it. As it was evidently impracticable to make so radical a change in their habits suddenly, the Indians were to have the privilege of hunting, root-gathering, and pasturing stock on vacant land until appropriated by settlers, and the right of fishing....The staple argument held out was the superior advantages of civilization, and the absolute necessity of their adopting the habits and mode of life of the white man in order to escape extinction.

He noted further that jealousies between tribes necessitated more reservations than Governor Stevens at first intended, "but some of them were established temporarily, with the right reserved in the President to remove the Indians to the larger reservations in the

now ceded to the United States, on the east side of Fox river and Green bay, with the same privileges they at present enjoy, until it be surveyed and offered for sale by the President; they conducting themselves peaceably and orderly." The treaty went on to provide that the Menominee would receive goods for four years, "by which time it is hoped their hunting habits may cease, and their attention be turned to the pursuits of agriculture."

future.²⁷

Hazard Stevens' assessment was echoed by Commissioner of Indian Affairs Alfred Greenwood who in 1860 reported that in the 1850s it had become the government's policy,

to locate a tribe within such limits as would not at first, or too suddenly, change the modes and manners of hunter life for purely agricultural, yet, at the same time, compel the members to labor in part for subsistence; and, as they become habituated to labor, gradually to restrict their possessions and finally to divide their reservations in severalty, giving to each a distinct and separate farm, and securing to them the comforts of life from the results of their own industry.²⁸

²⁷ Hazard Stevens, *THE LIFE OF ISAAC I. STEVENS* (2 vols., Boston: Houghton, Mifflin and Co., 1900), II:43-44, 454.

²⁸ CIA, Annual Report, 1860, 249-250. A modern authority on United States Indian policy has characterized the reservation policy:

So reservations--in most cases small parcels of land "reserved" out of the original holdings of the tribes or bands--developed as an alternative to the extinction of the Indians. The reservations, however, were thought of as a temporary expedient, for whites dealing officially with the Indians in the 1850s all accepted the idea that the nation within its new continental limits would become the abode of enterprising and prosperous American citizens. They had no notion of a pluralistic society or a divided land occupied in part by European immigrants and their descendants and in part by American Indians adhering to their own customs.

Prucha, *THE GREAT FATHER*, 317.

The Point Elliott Treaty described in some detail this ultimate goal of United States policy. Article 7 allowed the President at his discretion to "remove them from either or all of the special reservations herein before made to the said general reservation, or such other suitable place within said Territory as he may deem fit...." Further the President could divide any of the reserved lands or other selected land into parcels assigned to individuals or families "as a permanent home on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas...."²⁹ Assigning authority to the President (acting through the secretary of the interior and commissioner of Indian affairs) to select and divide lands was common operating procedure. Indeed, incorporation of portions of a treaty with a tribe located some 1,700 miles distant into the Point Elliott Treaty (Article 6 of the Omaha Treaty) indicates the extent to which government treaty policy of that time was of one piece.

Complementing Article 7 were Articles 6, 13, and 14 which provided for a school, teachers, a blacksmith, farmer, carpenter, and physician located at the general agency at Tulalip. Funds to support these employees and additional annuities would be paid over a period of twenty years. A special appropriation compensated for clearing, fencing, and breaking land when tribes moved to the

²⁹ Treaty with the Dwamish, Suquamish, etc., January 22, 1855, 12 Stat., 927.

reservations.³⁰ All of these activities the government deemed necessary to support an agricultural society. Although most families would farm, the farmer needed support services. Equally important to government officials were the schools and teachers indispensable to an enlightened, democratic community.

The commissioner of Indian affairs, secretary of the interior, United States Senate, and the President all endorsed and confirmed the Point Elliott Treaty. No objections arose from those quarters because the treaty encapsulated the Indian policy of the federal government. The primary purpose of the Lummi (and other) reservations under the Point Elliott Treaty was agriculture. The treaty established temporary reservations and allowed subsistence activities during a transition period when education, Christianity, and the arts of civilization would work their influence. At some point in time (likely before the end of the annuity period), at a location to be determined, members of the Lummi and other tribes would receive land in severalty with title in fee. Indians would become citizens at which time tribes, reservations, traditional customs, and a hunter-gatherer economy would all become part of the past replaced by an agrarian community similar to thousands of others spread across nineteenth century America.

The vision of the federal government for the future may not have been the one that some Lummi preferred, but the treaty council

³⁰ Ibid.

indicates that the Tribe's leaders endorsed the treaty. Perceptive chiefs likely agreed with government officials that the rapid changes taking place on Puget Sound left the Indians with no better choice. The treaties outlined a humane course of action. The alternative, as voiced by government officials, was "extinction."

III. THE LUMMI RESERVATION: SURVEY, EXECUTIVE ORDER, ALLOTMENT

War began in autumn 1855 delaying ratification of all but the first of the Stevens treaties.³¹ The Senate ratified the Point Elliott Treaty in 1859 and made appropriations for annuities for Puget Sound tribes to begin in 1860. The superintendent of Indian affairs for Oregon and Washington informed the Puget Sound Indian agent that the government intended to collect all the Indians west of the Cascade Mountains at the Tulalip site. He ordered the agent ✓ to make no improvements at the temporary reservations except those necessary to open farm lands.³²

With no employee closer than sixty-plus miles away from the Lummi River site, the Tulalip agent found in 1862 that little had been planted, but stated that the Indians there possessed good land and had promised to till the soil if a farmer were assigned to assist. This happened that same year with the appointment of C.C. Finkbonner, a resident of the Bellingham Bay area who would serve

³¹ The federal government appointed J. Ross Browne as a special agent in 1857 charged with investigating Indian matters in the Pacific Northwest. He was to advise if the treaties negotiated by Governor Stevens should be ratified; he so recommended. Browne further stated, "I fully concur with Governor Stevens in the propriety of concentrating the Indians of the Sound at some suitable point at as early a period as practicable." J. Ross Browne, "Report on the Condition of Indian Reservations in the Territories of Oregon and Washington," November 17, 1857, House Ex. Doc. 39, 35th Cong., 1st sess., 14.

³² Edward P. Geary to Michael Simmons, August 31, 1860, National Archives, Microfilm P2011, Puget Sound Agency Records, Roll 1.

as farmer for more than ten years.³³

Finkbonner secured oxen and agricultural implements, and most families began to garden and farm on an acre or two. Fishing, hunting, and picking cranberries provided other means of sustenance. By the end of the 1860s, thirty or forty men worked at the local coal mines. This represented a large portion of the adult males in the Tribe, and began a trend in which employment in the mines, woods, mills, and fields throughout the region became a major source of income. Finkbonner reported to the commissioner of Indian affairs that the Lummi Reservation was the pride and boast of visitors who believed the Indians there far advanced in civilization, temperance, and religion.³⁴

However, the Lummi had some complaints. Most of the treaty funds gravitated to the main reservation at Tulalip which had the largest population and where the agent resided. In a letter to the commissioner of Indian affairs, Lummi leaders complained in 1869 that they had not received the annuities promised. They stated that they had yielded their lands in good faith and wanted the treaty carried out. In addition they called for a physician and

³³ Samuel Howe to C.H. Hale, September 30, 1862, NA, P2011, PSDA, R.1. Finkbonner was related to the Lummi through his wife.

³⁴ C.C. Finkbonner to Capt. George Hill, September 28, 1869; Finkbonner to CIA, October 17, 1870, NA, M234, Letters Received by the Office of Indian Affairs [LRCIA], R.910, 911.

medicine. The chiefs averred that they wanted the Tribe's children to be "amongst the civilized and christian people of America."³⁵

In August 1871, Felix Brunot, chairman of the powerful and prestigious board of Indian commissioners, met with the Lummi as part of a tour of Washington and Oregon reservations.³⁶ Brunot cautioned against drinking and gambling and urged settling down to farming. He warned that they needed to be prepared "when the treaty runs out," meaning at the end of twenty years. Lummi leaders responded with complaints about the quality of annuity goods received, but mostly focused on the issues of boundaries and lands. David Crockett, who signed the 1855 treaty, said, "we want this reservation surveyed, that we may bring the Indians from the outside, and that all may have lands, and know what is theirs." Crockett concluded, "I want my people to be like white men, have cattle and horses, and imitate the good whites." Brunot responded that the right line would be run and "wherever the surveyor makes it we must agree to." In his report Brunot recommended regarding

³⁵ Lummi Chiefs to CIA, June 26, 1869, M234, LRCIA, R.910.

³⁶ In April 1869, Congress authorized the President to appoint a board of commissioners serving under his direction who would exercise joint control with the secretary of the interior over Indian appropriations. This authority combined with the prestige of the intellectual, religious, and business leaders appointed made the board a powerful force in Indian affairs. In an 1869 report the board advocated abandonment of the treaty system and abrogation of existing treaties. They called for education in industry, the arts of civilization and Christianity which would elevate Indians to the rights of citizenship. The board called for assignment of land in severalty and discouraging tribal relations. Prucha, GREAT FATHER, 503, 510.

✓ the Lummi, "it is important that the lines be definitely marked, and also the farms allotted by boundaries to those who cultivate them."³⁷

As the Lummi moved forward along the road toward the agrarian and American way of life contemplated by the treaty, two issues arose. First, the consolidation of tribes on fewer reservations. In 1860, as noted above, the superintendent of Indian affairs for Oregon and Washington told the Puget Sound agent that the government intended to ultimately collect all Indians west of the Cascade Mountains at Tulalip. Eight years later the Washington superintendent suggested moving the Swinomish to Lummi because of the good agricultural land there.³⁸ These proposed actions were consistent with provisions in the 1855 treaty. (Similar proposals are discussed below). They provide an indication that the Lummi Reservation was not only considered temporary, but not deemed the exclusive preserve of that Tribe.

✓ The composition of the population on the Lummi Reservation reflected the government's policy of settling members of various tribes on the temporary reserves created by the Point Elliott Treaty. A special 1880 census (conducted in 1881) revealed that

³⁷ Minutes of a Council, Held at Lummi Reservation, Washington Territory, by Commissioner Felix Brunot, August 29-30, 1871; Brunot to Board of Indian Commissioners, November 20, 1871, CIA, Annual Report, 1871, 537, 556-559.

³⁸ Edward P. Geary to Simmons, August 31, 1860, P2011, PSAR, R.1. T.J. McKenny to CIA, March 16, 1868, M234, LRCIA, R.910.

those living on the Lummi Reservation included individuals who claimed membership in eleven tribes as well as nine individuals who were "whites." Within the seventy-six families on the reservation there were approximately thirty-eight adults who traced their lineage to non-Lummi tribes.³⁹

Conversely many members of the Lummi Tribe lived outside the reservation. In 1881, these included as many as sixteen families on San Juan and Orcas Islands.⁴⁰ A government census made in 1919 located approximately 198 Lummi living outside the reservation. Most lived in various locations in Washington, but some were resident in British Columbia, Montana, and as far away as France and Panama.⁴¹

In addition to consolidating the temporary reservation, a second issue was survey of reservation lands prefatory to the assignment of individual allotments. In 1865, the Washington superintendent urged division of reservation lands in severalty as the best way to encourage permanence and help induce the tribes to abandon "the wild mode of life" and to imitate white practices. In 1871,

³⁹ Records of the Bureau of the Census, RG 29, M1791, Schedule of a Special Census of Indians, 1880, Tulalip Agency, R.2. Lummi Reservation residents claimed lineage as Swinomish, Nooksack, Stokamish, Skagit, Chilliwhac, Cowichan, Stickein, Clallam, Snohomish, and Semiamoo.

⁴⁰ Ibid.

⁴¹ NAS, Tulalip Agency, Tribal Census Rolls, 1913-1929, Schedule of Unenrolled Indians of Western Washington, Lummi Tribe, B.473.

Washington Superintendent of Indian Affairs Robert Milroy noted that the chairman of the board of Indian commissioners (Brunot) had recently visited the Puget Sound tribes and found most Indians anxious to have surveys and land patents.⁴²

Lummi Reservation Farmer in Charge C.C. Finkbonner urged survey into tracts assigned to heads of families with distinct ownership. In this way, he said, the Lummi would improve more land, acquire property, and abandon tribal organization. Finkbonner believed that patents would forestall removal, and the Lummi would "enjoy all the rights of their white fellow citizens."⁴³

In March 1873 farmer Finkbonner forwarded a petition from the Lummi which came to him unsolicited. They feared their lands would be taken by a railroad projected for the area (this was the era of land grants to railway companies). The Lummi wished only to become citizens and offered to forfeit future annuities (scheduled under the treaty for six more years). "All that they now ask from the [Indian] Department," said Finkbonner, "is to have their lands surveyed and receive a title to it. They wish to become citizens and amenable to civil law."⁴⁴

⁴² William Waterman to Senator J.R. Doolittle, August 31, 1865; Robert Milroy to CIA, September 3, 1872, M234, LRCIA, R.909, 912.

⁴³ Finkbonner to E.C. Chirouse, September 1, 1872, P2011, Tulalip Agency Correspondence, R.2.

⁴⁴ Finkbonner to Chirouse, March 10, 1873, P2011, Tulalip Agency Correspondence, R.2.

The Lummi had good reason to believe those who warned reservation lands would be taken for other purposes. Superintendent of Indian Affairs Robert Milroy pointed out to his superior, the commissioner of Indian affairs, that no action had been taken to alter the treaty provision creating the Puget Sound reservations for the "present use and occupation" of the tribes. The Lummi and others lived on lands as "tenants at will" of the United States. The remedy existed in the treaties, Milroy noted, as the government only needed to implement Article 6 of the Omaha Treaty which detailed the allotment process. In this way, Milroy believed, the Indians would be civilized and made into Americans.⁴⁵

Milroy's superiors did not act immediately on his proposal. However, in 1874, two special commissioners appointed by the commissioner of Indian affairs were charged with making recommendations for the location of the western Washington tribes. After investigation and upon reference to the 1854-1855 treaties, Commissioners J.D. Lang and F.H. Smith proposed consolidation on fewer reservations. For those under the Point Elliott Treaty, "[i]t is believed that their best interests would be promoted by placing them upon a single reservation...." However, the commissioners noted that the Tulalip lands set aside in the Treaty had proven less fertile than originally believed and recommended that the single reservation be at the Lummi site which would be extended five miles north, "and that the Indians now located upon

⁴⁵ Milroy to CIA, September 3, 1872, M234, LRCIA, R.912.

the Tulalip, Muckleshoot, Port Madison, and Swinomish reservations be removed and consolidated at this point."⁴⁶

✓ Even this new reservation was seen as a stopgap measure until the Indians completed the assimilation process already underway. Lang and Smith predicted, "within a very brief period of years...the absorption of all the Indians in this portion of the Territory, in the general mass of community, and in releasing the Government from any further obligation to provide for their care as a separate people."⁴⁷

Father Eugene C. Chirouse, agent for all the tribes under the Point Elliott Treaty, added his support to the proposal of Lang and Smith. He also advised the commissioner of Indian affairs that the various suggestions for consolidation of the temporary reservations had prompted the tribes under his charge to pose several questions:

Will our Father at Washington [D.C.] force us to leave our present homes and when?

Is it advisable for us to continue making improvements if we are not to have the benefit?

Could we not have two Reservations instead of one?

⁴⁶ J.D. Lang and F.H. Smith to Commissioner of Indian Affairs, November 20, 1874, CIA, Annual Report, 1874, 78. As another alternative, the commissioner of Indian affairs proposed moving all of the tribes in the region to the Yakima Valley. Commissioner of Indian Affairs, Annual Report, 1876, vii-viii.

⁴⁷ Lang and Smith to CIA, November 20, 1874, CIA, Annual Report, 1874, 79.

Would the Government allow us to be free, and as we were before there was any Treaty made?

If we leave our homes and improvements, will the Government remunerate us and furnish us with as good or better ones? ✓

Will the Government allow us to make our own choice in the place of location?

How long will the Government still give us assistance on the new Reservation?

Shall we not be removed anymore?⁴⁸

These questions indicate that the tribes under the Tulalip Agency, including the Lummi, believed the federal government, following the terms of the Point Elliott Treaty, possessed the right to move them to a new location, and that that removal appeared imminent. ✓

In addition to official reports and recommendations regarding the temporary reservations, local citizens, well aware of the treaty provisions, told the Lummi, in the words of the official in charge of the Lummi Reservation, "that in a few more years, their annuities will cease, and their treaties expire, when they will be removed, and their reservation will be occupied by the whites."⁴⁹ ✓

Given the above expressed concerns by Lummi and government

⁴⁸ E.C. Chirouse to CIA, November 25, 28, 1874, M234, LRCIA, R.913.

⁴⁹ C.C. Finkbonner to E.C. Chirouse, September 1, 1872, National Archives, Microfilm P2011, Tulalip Agency Correspondence, Roll 2.

representatives, it appears they were in agreement on the need for surveys and allotment in severalty. Such actions would provide land to individuals and safeguard their title.

Washington superintendent Robert Milroy urged interior surveys of reservations at the same time as the external boundary surveys in order to speed the allotment process. Congress appropriated funds to Milroy for this purpose in 1873. The commissioner of Indian affairs instructed the Washington superintendent to use the monies as he thought best on as many reservations as possible for surveys "for agricultural purposes." In August, the surveyor general for Washington Territory contracted with surveyors to locate the exterior boundaries of the Puyallup, Skokomish, Tulalip, and Lummi Reservations and to divide the interior lands into forty acre tracts.⁵⁰

The lands within the Lummi Reservation had been surveyed in 1859 as part of the government's general land survey with no reference to this area as a reservation, although the Point Elliott Treaty had been ratified three months before the work began. Late in 1859, Indian agent Michael Simmons made the Lummi Reservation boundaries conform to the section lines of the government survey. An advisor to Governor Stevens during the treaty negotiations, Simmons knew

⁵⁰ Milroy to CIA, May 8, 1873; Secretary of the Interior to Commissioner of the General Land Office, July 12, 1873, M234, LRCIA, R.912. CIA to Milroy, April 19, May 28, 1873, M21, LSCIA, R.112. NAS, RG 49, Bureau of Land Management, Indian Reservations, Contracts, 1871-1874, Box 16.

the Point Elliott Treaty contained only a general description of the reservation's boundaries. Eight years later, reservation farmer Finkbonner referenced Simmons' action but remained uncertain as to the area encompassed by the Lummi Reservation estimating it at between 15,000 and 20,000 acres.⁵¹ In 1873, Washington superintendent Milroy noted that Simmons had excluded 1,370 acres on the island that supposedly contained the reservation and included 2,200 acres not part of the island.⁵²

Because the 1855 treaties for many western Washington tribes described the lands set aside in only general terms, the 1873 surveys required official action by the federal government to legally withdraw the land from the public domain. Accordingly, President U.S. Grant signed an Executive Order applying to the Lummi lands on November 22, 1873, one week after completion of the survey. The Order stated that the lands were set apart for the "Dwamish and other allied tribes of Indians."⁵³

The 1873 Executive Order was by its very nature temporary as its purpose was to withdraw land from the public domain prefatory to allotting it to members of the Lummi and other tribes. This in

⁵¹ Simmons to Geary, December 13, 1859, WSIA, R.9. Finkbonner to A.R. Elder, July, 1867, CIA, Annual Report, 1867, 57-60.

⁵² Milroy to CIA, March 10, 1873, M234, LRCIA, R.912.

⁵³ Executive Order, November 22, 1873. The Lummi Executive Order was one of several issued for western Washington reservations in 1873-1874.

turn was prefatory to those individuals receiving patents and assuming their place in society as equal citizens of the United States.

Five years after the Lummi Executive Order, the commissioner of Indian affairs asserted, "[t]he occupants of reservations created by executive order, or the direction of the Secretary [of the Interior], are mere tenants at will, and possess no permanent right to the lands upon which they are temporarily permitted to remain." The commissioner's annual report in 1880 added, in the "progressive age in which we live,...all true friends of the Indian" favored individual land titles to convey a sense of ownership and the value of labor, to promote "disintegration of tribal relations" and to prepare "for the duties of a citizen."⁵⁴

Six months after the 1873 survey and Executive Order, superintendent Milroy noted that on the several reservations surveyed, including Lummi, the families of adult males had selected lands and were waiting for the government to issue certificates confirming their choices. This action (or the issue of patents) did not take place immediately because officials in Washington, D.C., were still contemplating consolidation or removal of the

⁵⁴ CIA, Annual Report, 1878, 486. CIA, Annual Report, 1880, 95.

tribes in western Washington (see discussion above).⁵⁵

In March 1879, Tulalip Agent John O'Keane forwarded letters "from the five different chiefs residing at this agency." Chief Charley Jules, addressing "our dear Fathers at Washington," said that white men were always saying that the government would "move us to some strange place." Another leader advised the President, "You made good laws for us Indians, and I will accept that law." Voicing the common assumption of the time that the treaties would end after twenty years, a chief asked, "[w]hen our Treaty is at an end, I would like to know how you will treat us, and what you will do for us."⁵⁶

Charley Jules agreed with government agents who noted how difficult it became for people to work hard to improve lands and homes under uncertain conditions relative to land title. But, despite qualms regarding government intentions and plans for the Lummi, agents and Indian department inspectors consistently reported during the 1870s and 1880s that the Lummi possessed better agricultural land and did more with it than most tribes in the region. One inspector reported that the Lummi reservation contained 12,311 acres of which seven-eighths was flat. The 226 inhabitants produced 2,000 pounds

⁵⁵ Milroy to CIA, May 29, 1874, M234, LRCIA, R.913.

⁵⁶ John O'Keane to Commissioner of Indian Affairs, March 10, 1879; Charley Jules, et.al. to Our dear Fathers at Washington, March 10, 1879, National Archives, Seattle, Record Group 75, Tulalip Agency, Letters Sent to CIA, Box 24.

allotment. It was an old idea expressed with new urgency. This way of thinking, which had long since been applied to Washington Territory and many other areas, culminated in the General Allotment Act, or Dawes Act, of 1887 which in general outline mirrored the allotment provisions in Article 6 of the Omaha Treaty that had been incorporated in the Point Elliott Treaty. This national emphasis on allotment during the decade of the 1880s spurred action on the Lummi Reservation.

In 1883, H.R. Stewart resurveyed the interior lines of the reservation and seventy-three allotments were made. Stewart found that most of the Lummi had from one to thirty acres under cultivation, and in general he made the allotments conform to existing holdings. Based on family size, most secured between 120 and 170 acres although single individuals received lesser amounts. In all about seven-eighths of the reservation was allotted at that time. The allotted portion corresponded closely to estimates of the acreage valuable for agricultural or timber land.⁵⁹

In April 1884, Tulalip Agent Patrick Buckley forwarded the schedule of Lummi allotments to the commissioner of Indian affairs. He urged, "that you give them your earliest attention as the Indians

⁵⁹ Field Notes of the Resurvey of the Lummi Indian Reservation, 1883, Center for Pacific Northwest Studies, Northwest Ethnohistory Collection, Box 6. One piece of unfinished allotment business remained. In 1906 the small portion of the reservation not allotted in 1883-1884 was assigned. William McCluskey to Charles Buchanan, May 17, 1906, Tulalip Agency, LR, Lummi, Box 99; Tulalip Agency, Allotment Records, Box 334.

are very desirous of receiving their patents." Buckley reported the Lummi energetically clearing, fencing, and planting as, the receiving of their lands in severalty has caused them to take more interest and work more faithfully, and when they receive their patents for the lands which they have located on, it will be another incentive and they will be more contented and work to a better advantage, for then each one will know that any work done or improvements made is for himself and that he cannot be deprived of the benefits arising therefrom.⁶⁰

By 1887, most of the patents had been issued. The commissioner of Indian affairs in that same year informed the Tulalip Agency that all allotted Indians were citizens of the United States subject to the law, both criminal and civil. Congressional legislation in 1891 allowed Indians to lease lands to non-Indians; after 1906, Indians judged by the Indian Office as competent to manage their financial affairs had trust patents replaced by fee patents.⁶¹

After Lummi allotment in the mid-1880s, white settlers pressed for opening to sale the few hundred acres of reservation lands remaining. Indian Inspector Frank Armstrong advised against it because, he noted, no land remained other than that necessary to

⁶⁰ Patrick Buckley to CIA, April 16, May 2, 1884, Tulalip Agency, Letters Sent to CIA, Box 24.

⁶¹ CIA to W.H. Talbott, March 1, 1887, Tulalip Agency, Letters Received from CIA, 1876-1909, Box 6.

complete allotments to the Lummi. After a final round of allotments in the first decade of the twentieth century, Lummi Farmer in Charge William McCluskey reported that nearly all lands had been allotted in severalty. The 1917 annual report for the Lummi noted that 12,501 acres were allotted to individuals and that no acres remained unallotted or under the control of the Lummi Tribe.⁶²

The ultimate outcome of Isaac Stevens' 1850s treaties was the allotment of land to individual members of the western Washington tribes either within the areas set aside for temporary reservations, on additional lands reserved under executive order, or on public domain lands. For members of the Lummi Tribe, allotments were made by authority of the Point Elliott Treaty, under the Indian Homestead Act (1875), or by the General Allotment Act of 1887.

⁶² Frank Armstrong to Secretary of the Interior, July 8, 1887, M1070, Reports of Inspections, R.53. William McCluskey to Charles Buchanan, July 31, 1906, Tulalip Agency, Annual Reports, Box 311. Tulalip Agency, Annual Reports, Lummi, 1917 Statistical Report, 54, Box 313.